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REMARKS

In the Office Action dated November 20, 2003, independent claims 1, 6, 9, 26 and 29 were rejected under 35 U.S.C. 102(e) as being anticipated by Dodson (U.S. Patent No. 6,513,159, hereinafter, "Dodson"). Further, independent claims 14 and 19 were rejected under 35 U.S.C. 102(e) as being anticipated by Huotari, et al. (Patent Publication No. 20020004935, hereinafter "Huotari").

Independent claim 1 calls for receiving a request to select one of a plurality of available system elements to be installed, receiving an identification of a first system element which is not of the plurality of available system elements, installing the first system element, deinstalling the first system element, and installing one of the plurality of available system elements.

To anticipate, a reference must be sufficiently clear so as to prove the existence of each and every element in the reference. See *Motorola, Inc. v. Interdigital Tech. Corp.*, 121 F.3d 1461, 1473 (Fed. Cir. 1997). It is respectfully submitted that Dodson fails to anticipate claim 1. For example, Dodson teaches a master installer 205. The master installer includes three components; the system evaluator 210, the driver evaluator 215, and the driver installer 220. Dodson, 2:55-58. These components assist the master installer with the evaluation, update and/or installation of drivers on the computer system 105. 2:58-65. The computer system 105 may be connected to a driver source 140 via a global network. 2:42-43; Figure 1. Generally, the master installer requests and receives required drivers from the driver source 104. 4:2-12. Thereafter, the master installer installs the required drivers in computer system 105.

At a minimum, Dodson fails to disclose installing and deinstalling a first system element. For example, the master installer 205 is installed prior to a hardware query. 3:50-53. Further, the master installer 205 remains installed during and after driver updates or installation. See, Figure 4 (The master installer repeats the operation of driver installation.); 4:24-34. As such, it is respectfully submitted that Dodson fails to anticipate claim 1 and the claims dependent therefrom.

Independent claims 6, 9, 26 and 29 were rejected for reasons similar to that of claim 1. Likewise, for similar reasons it is respectfully submitted that Dodson does not anticipate any of claims 6, 9, 26, and 29 or the claims dependent therefrom.

Independent claim 14 calls for receiving from an operating system of a machine a request to identify a driver, prompting a user to identify the driver, receiving from the user an identification of a common driver, delivering the identification of the common driver to the operating system to satisfy the operating system's request, installing the common driver, receiving from the user an identification of an operating system interface through which a component is to access the operating system, deinstalling the common driver, installing a first driver from a plurality of available drivers for the component, the first driver being selected from the plurality in accordance with the identification of the operating system interface.

In the Office Action, Huotari is relied upon as an anticipatory reference. To anticipate a claim, a reference must disclose every element of the challenged claim. See *PPG Indus., Inc. v. Guardian Indus. Corp.*, 75 F.3d 1558, 1566 (Fed. Cir. 1996). Further, the reference must be sufficiently clear so as to prove the existence of each and every element in the reference. See *Motorola, Inc. v. Interdigital Tech. Corp.*, 121 F.3d 1461, 1473 (Fed. Cir. 1997). Based upon these standards, it is respectfully submitted that Huotari fails to anticipate claim 14 and the claims dependent therefrom.

Pursuant to Huotari, a DSL installation program 135, not an operating system, is used to install a DSL modem. Page 5, [0065]. Thus, Huotari fails to disclose direct involvement of the operating system with driver installation. In fact, according to Huotari, the role of the operating system is to provide communication protocols to establish communication with a communication medium 115. Page 4, [0057]. Thus, Huotari fails to teach or suggest with sufficient clarity the limitation of receiving from an operating system of the machine a request to identify a driver.

Furthermore, Huotari fails to disclose with sufficient clarity prompting a user to identify a driver. For example, in the Office Action, paragraph 62 of Huotari is relied on for this teaching. However, paragraph 62 merely lists the components of the user's system 105. There is no teaching within paragraph 62 of a user being prompted to identify a driver.

Similarly, paragraph 63 is relied on as teaching receiving from the user an identification of a common driver. However, paragraph 63 merely indicates that input (in general) may be received from a user, for example through a keyboard. There is no clear teaching or suggestion in paragraph 63 of receiving from the user the identification of a common driver.

The simple fact is, Huotari fails to disclose with clarity an operating system that requests the identity of a driver, prompting the user to identify a driver, receiving from the user an identification of a common driver and delivering the identification of the common driver to the operating system to satisfy the operating system's request. Thus, for at least these reasons, Huotari fails to anticipate claim 14.

It is unclear from the Office Action where a "common driver" is taught in Huotari. For example, with respect to claim 17, which calls for the common driver to be a do-nothing driver, the Office Action cites to paragraph 65 of Huotari. Paragraph 65 is directed toward the DSL installation program 135. In contrast, with respect to claim 14, the Office Action cites to paragraph 64 as teaching delivering the identification of the common driver to the operating system to satisfy the operating system's request. However, paragraph 64 is directed toward a configured modem 220, which is part of the user system 105 apart from program 135. See Figure 2; page 4, [0062].

The configured modem 220 is "configured to operate without any further installation or configuration". Page 5, [0064]. Thus, Huotari fails to disclose user identification of the configured modem and delivering of the identification to the operating system to satisfy the operating systems request.

Similarly, the DSL installation program 135 is not a common driver as claimed. For example, as was previously explained Huotari fails to clearly disclose receiving from the user an identification of a common driver or delivery of the identification of the common driver to the operating system's request. Further, with respect to installing and configuring the DSL device, the user's initial choice is to select one of the three program options: install and configure the DSL device, change DSL modem settings or uninstall the program. Figure 9; page 9, [0110]. Thus, when the user sees the initial screen for device installation, the program is already installed on the computer. Figure 9 ("Welcome to the dsl_ON Connection Setup program...")

In sum, it is respectfully submitted that Huotari fails to disclose in a sufficiently clear manner all of the elements of claim 14. As such, claim 14 and claims dependent thereon are not anticipated by Huotari.

Claim 19 was rejected for reasons similar to claim 14. As has been explained, Huotari does not anticipate claim 14. thus, for at least the same reasons, Huotari does not anticipate claim 19 and claims dependent thereon.

For at least the reasons outlined above, none of the independent claims are believed to be anticipated. Where an independent claim is patentable, the claims dependent thereon are also patentable. Thus, the application is believed to be in condition for allowance. The Examiner's furtherance toward this end is respectfully requested.

Respectfully submitted,

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